

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL ACTION NO.
	)	3:09cr203-MHT
JOHN ERNEST JOHNSTON	)	(WO)

SENTENCING OPINION

As the court stated in open court (so as to provide a complete record of reasons, including alternative ones, should there be an appeal), even in the absence of the dismissal of count one and based on United States v. Booker, 543 U.S. 220 (2005), the court would still have varied downward from the sentencing guideline of 20 on count one so as to give the same five-year sentence as to both counts for the following reasons, separately and together:

(1) The reasons given in the court's opinions and order of July 17, 2013 (doc. no. 64), July 30, 2013 (doc. no. 86).

(2) Because defendant John Ernest Johnston committed both robberies in such a short time span.

(3) The robberies were committed out of financial desperation.

(4) Defendant Johnston worked 33 years at the same job before becoming unemployed.

(5) The robberies were an aberration in an otherwise law-abiding life.

DONE, this the 31st day of July, 2013.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE